

ORIGINAL

13

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SOCIETY OF THE HOLY
TRANSFIGURATION MONASTERY,
INCORPORATED,

Plaintiff,

v.

SHERIDAN BOOKS, INC. and
ARCHBISHOP GREGORY OF DENVER, CO,

Defendants.

Case: 2:06-cv-10291

Assigned To : Steeh, George Caram

Referral Judge: Whalen, R. Steven

Assign. Date : 01/23/2006 @ 1:45 p.m.

Description: cmp society of the holy
transfiguration monastery, inc v.
sheridan books, inc., et al (tam)

Kathleen A. Lang (P34695)
DICKINSON WRIGHT PLLC
Attorneys for Plaintiff
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226
(313) 223-3500
klang@dickinsonwright.com

Of Counsel
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Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Tel: (617) 542-5070

COMPLAINT AND JURY DEMAND

For its Complaint, Plaintiff Holy Transfiguration Monastery alleges as follows:

The Parties

1. The Plaintiff Society of the Holy Transfiguration Monastery, Incorporated ("the Monastery") is a community of religiously devoted members of an Eastern Orthodox Order that

is located at 278 Warren Street, Brookline, MA 02445. The Monastery is non-profit corporation in good standing incorporated under the laws of the Commonwealth of Massachusetts.

2. Defendant Sheridan Books, Inc. ("Sheridan") upon information and belief is a Michigan corporation, having its principal place of business at 613 East Industrial Dr., Chelsea, MI 48118. Defendant Sheridan is, upon information and belief, a full-service book manufacturer and fulfillment service that enters into contracts to consult, print, bind, and distribute books

3. Defendant Archbishop Gregory was formerly a monk in the Monastery and is, upon information and belief, currently a resident of Buena Vista, Colorado with a mailing address of Post Office Box 3177, Buena, Vista, CO 81211.

Jurisdiction and Venue

4. The Court has jurisdiction over Defendant Sheridan in that Defendant Sheridan has a principal place of business in Michigan and conducts business in Michigan, including business relating to the subject matter of this action.

5. The Court has jurisdiction over Defendant Archbishop Gregory in that Defendant Archbishop Gregory, upon information and belief, entered into a contract in Michigan with Defendant Sheridan to print and bind the book, the copies of which are the subject matter of this action.

6. The Court has exclusive subject matter jurisdiction over the copyright claims in this Complaint under 28 U.S.C. § 1338(a) and 17 U.S.C. § 301(a).

7. Venue is proper in this jurisdiction and district under 28 U.S.C. §§ 1391 (a) and (c) and 1400(a).

Factual Allegations

8. Plaintiff's community was founded in 1960 in Haverhill, Massachusetts, and now consists of 35 monks, living in obedience to an abbot in Brookline, Massachusetts. Defendant Archbishop Gregory was formerly a monk of the Monastery. He was not ordained as a priest and he left the Monastery in 1978.

9. Among the works undertaken by the Monastery in furtherance of its mission and purpose, the Monastery created a translation of an ancient text entitled "The Life of Saint Andrew the Fool-For-Christ of Constantinople" ("the St. Andrew Text") from an original text in the Greek language.

10. Members of the Monastery took time and expended energy, intellectual effort, and the capital to translate, edit, and typeset the St. Andrew Text. The Monastery has not yet published its translation of the St. Andrew Text, due largely to significant demands on time, energy, and funds made by other major publication projects.

11. The unpublished St. Andrew Text translation constitutes original expression and copyrightable subject matter, the copyright in which is owned by the Monastery.

12. The Monastery has applied for and received a registration of its copyright in and to the St. Andrews Text, Registration No. TXu1-269-192, issued on October 14, 2005 (Exhibit 1).

13. The Monastery has not authorized any of the Defendants or any third parties to make copies, publish or distribute the copyrighted St. Andrew Text.

14. Upon information and belief, Defendant Archbishop Gregory has access to a copy of the copyrighted St. Andrew Text. Upon information and belief, Defendant Archbishop Gregory obtained a copy of the copyrighted St. Andrew text without the Monastery's permission and in violation of the trust it placed in third persons in approximately March of 2005.

15. On or about September 6, 2005, members of the order discovered that without permission Defendant Archbishop Gregory, through an entity entitled the Dormition Skete press, had published or was about to publish a near-identical reproduction and copy of the copyrighted St. Andrew Text, which was, upon information and belief, printed and bound by Defendant Sheridan.

16. The book printed by Defendant Sheridan and published by Defendant Archbishop Gregory is a near-identical verbatim reproduction and unauthorized copy of the entire copyrighted St. Andrew Text.

17. On information and belief, Defendant Archbishop Gregory advertises, offers for sale, distributes, and sells unauthorized copies of the copyrighted St. Andrew Text through its website, www.dormitionsketc.org. Plaintiff has obtained a copy of defendants' unauthorized copy.

18. On information and belief, Defendant Sheridan has contracted with Defendant Archbishop Gregory in Michigan to print and deliver the unauthorized copies of the copyrighted St. Andrew Text .

Copyright Infringement—All Defendants

19. Plaintiff repeats and incorporates by reference the allegations of paragraphs 1 through 18, above.

20. The Monastery owns the St. Andrew Text translation and the copyright in and to the St. Andrew Text, which it translated, edited, and typeset. The Monastery has at no time relinquished any ownership rights in its copyright of the St. Andrew Text.

21. The Monastery holds a certificate of copyright registration for the St. Andrew Text, and has not relinquished any ownership rights in its copyright of the St. Andrew Text.

22. Defendant Archbishop Gregory has published, sells, offers for sale, and distributes a nearly identical unauthorized copy of the St. Andrew Text without permission of the Monastery, the copyright owner. The acts of Defendant Archbishop Gregory constitute copyright infringement under 17 USC § 106.

23. Defendant Archbishop Gregory upon information and belief, entered into a contract to allow Defendant Sheridan to reproduce the near identical unauthorized copy and reproduction of the St. Andrew Text. Defendant Sheridan, upon information and belief, copied and printed the near identical unauthorized copy and reproduction of the St. Andrew Text, without permission of the Monastery, the copyright owner, materially contributing to the infringement of the copyrighted work the St. Andrew Text. The acts of Defendant Sheridan constitute copyright infringement under 17 U.S.C. § 106.

24. The acts of Defendants alleged above constitute infringement of the copyright in and to the registered work "The Life of Saint Andrew the Fool-For-Christ of Constantinople" and inducement of copyright infringement under 17 U.S.C. §§ 106 and 501.

25. Plaintiff is damaged by Defendants' acts of infringement. Furthermore, Defendants' have, upon information and belief, profited from their acts, entitling Plaintiff to an award of its actual damages and any additional Defendants' profits under 17 U.S.C. §§ 504(a)(1) and 504(b).

26. Upon information and belief, the infringing acts of Defendants were undertaken and/or continued with knowledge of Plaintiff's copyright rights and without any good faith basis in law or fact that their actions were legal and thus Defendants acts of infringement were committed willfully and in disregard of Plaintiff's known rights.

Prayer for Relief

WHEREFORE, Plaintiff respectfully prays that this Court:

(1) Enter judgment in favor of Plaintiff and against Defendants on the Complaint;

(2) Preliminary and permanently enjoin Defendants from publishing, posting, copying, offering to copying, or otherwise distributing Plaintiff's copyrighted works, including all versions thereof;

(3) Order the Defendants to account for and pay to Plaintiff all gains, profits and savings derived from their acts of infringement;

(4) Award Plaintiff its damages, in addition to Defendants' profits, as a result of Defendants' copyright infringement;

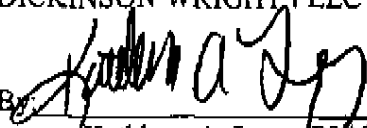
(5) Order Defendants to deliver up and surrender to Plaintiff all unauthorized copies of Plaintiff's copyrighted text, including all prints, plates, masters, physical and electronic, from which copies can be made, for destruction;

(6) Award Plaintiff such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff demands trial by jury on all issues triable thereby.

DICKINSON WRIGHT PLLC

By 

Kathleen A. Lang (P24695)

Attorneys for Plaintiff

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Detroit, Michigan 48226

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Of Counsel

Mark A. Fischer, Esq.

Heidi E. Harvey, Esq.

Fish & Richardson P.C.

225 Franklin Street

Boston, MA 02110

Tel: (617) 542-5070

DATED: January 23, 2006

DETROIT 99999-200 914075v1

UNITED STATES DISTRICT COURT
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SOCIETY OF THE HOLY
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INDEX OF EXHIBITS TO COMPLAINT

EXHIBIT 1

Copyright Registration No. TXu1-269-192 issued 10/14/05

EXHIBIT 1

01/18/2006 18:31 FAX

002

Copyright Office fees are subject to change.
For current fees, check the Copyright Office
website at www.copyright.gov, write
right Office, or call (202) 707-3000.

149867961



Form TX

For a Nonmember Library Work
UNITED STATES COPYRIGHT OFFICE

TXu 1-269-192



EFFECTIVE DATE OF REGISTRATION

Month 10 Day 14 Year 05

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

TITLE OF THIS WORK

The Life of Saint Andrew, the Fool for Christ of Constantinople

PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work to which the contribution appeared. Title of Collective Work

If published in a periodical or serial give: Volume Number Issue Date On Page

2

NAME OF AUTHOR

a Society of the Holy Transfiguration Monastery, Inc.

DATES OF BIRTH AND DEATH
Year Born Year DiedWas this contribution to the work a
"work made for hire"?☒ Yes☐ NoAUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of: USA

OR Domiciled in:

WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORK

Anonymous?

☐ Yes☒ No

Pseudonymous?

☐ Yes☒ NoIf the answer to either
of these questions is
"Yes," see detailed
instructions.NATURE OF AUTHORSHIP
Entire Text

Briefly describe nature of material created by this author in which copyright is claimed.

NAME OF AUTHOR

DATES OF BIRTH AND DEATH
Year Born Year DiedWas this contribution to the work a
"work made for hire"?☐ Yes☒ NoAUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of:

OR Domiciled in:

WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORK

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Briefly describe nature of material created by this author in which copyright is claimed.

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DATES OF BIRTH AND DEATH
Year Born Year DiedWas this contribution to the work a
"work made for hire"?☐ Yes☒ NoAUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of:

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WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORK

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☐ Yes☒ No

Pseudonymous?

☐ Yes☒ NoIf the answer to either
of these questions is
"Yes," see detailed
instructions.

NATURE OF AUTHORSHIP

Briefly describe nature of material created by this author in which copyright is claimed.

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instruction 1000). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

3

a YEAR IN WHICH CREATION OF THIS
WORK WAS COMPLETED
1976This information
must be given
to all owners.

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information. Month Day Year

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.

Society of the Holy Transfiguration Monastery, Inc.
278 Warren St., Brookline MA, 02445

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

APPLICATION RECEIVED
OCT 14 2005
ONE DEPOSIT RECEIVED
OCT 14 2005
TWO DEPOSITS RECEIVED
FUNDS RECEIVED

MORE ON BACK • Complete all applicable spaces (numbers 1-9) on the reverse side of this page.
• See detailed instructions. • Sign the form at line 9.DO NOT WRITE HERE
Page 1 of 1 pages

01/18/2008 15:31 FAX

003

EXAMINED BY <u>dek/unn</u>	FORM TX
CHECKED BY	
<input type="checkbox"/> CORRESPONDENCE	FOR
Yes	COPYRIGHT
	OFFICE
	USE
	ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.)a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number >

Year of Registration >

5

DERIVATIVE WORK OR COMPILATION

Preceding Material Identify any preceding work or works that this work is based on or incorporates.

Greek Original

a

6

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

English Translation of Greek Original plus Footnotes. Translation was typeset but never published.

b

See instructions before completing this space.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

a

7

CORRESPONDENCE Give name and address in which correspondence about this application should be sent. Name/Address/Apt./City/State/ZIP

Father Pachomius / Holy Transfiguration Monastery
278 Warren St
Brookline, MA 02445

b

Send only and require telephone number >

Email >

paco@thetm.org

Fax number > (617) 730-5783

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one >

- ☐ author
☐ other copyright claimant
☐ owner of exclusive right(s)

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

I am authorized agent of Society of the Holy Transfiguration Monastery, Inc.

Name of author or other copyright claimant, or owner of exclusive right(s)

8

Typed or printed name and date > If this application gives a date of publication in space 3, do not sign and submit it before that date.

Father Pachomius

Date > October 12, 2005

Handwritten signature (s) >

x Father Pachomius

Certification will be mailed in window envelope to this address:

Name >
 Father Pachomius / Holy Transfiguration Monastery
 Address/Street/Apt >
 278 Warren St
 City/State/Zip >
 Brookline, MA 02445

1. Complete all necessary spaces & sign your application & space 5.
 2. Mailable fee (see fee in check or money order payable to Registrar of Copyrights & Deposit Copies)
 3. Application fee
 4. Copyright fee
 5. Deposit fee
 6. Copyright Office - TX
 101 Independence Avenue, S.W.
 Washington, D.C. 20540-4001

9

17 U.S.C. § 405(a): Any person who knowingly makes a false representation of a material fact in an application for copyright registration is provided for by section 405, or in any other statement filed in connection with the application, shall be fined not more than \$5,000.

Form July 2005—rev 10th Rev. July 2005 Printed on recycled paper

U.S. Government Printing Office 2005-461-110/05,001

ORIGINAL

SOCIETY OF THE HOLY TRANSFIGURATION
MONASTERY, INCORPORATED v.
SHERIDAN BOOKS, INC., et al

2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

PATENT, TRADEMARK, COPYRIGHT INFORMATION

(To be submitted when 820, 830 or 840 category case is filed)

1. If this is a patent case, please respond:

PATENT NO. DATE OF PATENT PATENTEE

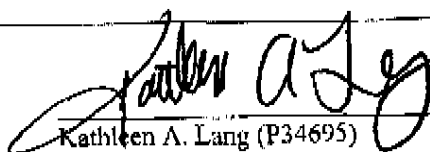
2. If this is a trademark case, please respond:

TRADEMARK NO. DATE OF TRADEMARK TRADEMARK APPLICANT

3. If this is a copyright case, please respond:

COPYRIGHT REG. NO. TITLE OF WORK AUTHOR OF WORK

TXu1-269-192 10/14/05 Society of the Holy Transfiguration Monastery, Inc.


Kathleen A. Lang (P34695)
Attorney's Signature

Dated: January 23, 2006

DETROIT 99999-200 9100201

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JS 44

CIVIL COVER SHEET

261 ORIGINAL

COUNTY IN WHICH ACTION AROSE WAYNE

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SOCIETY OF THE HOLY TRANSFIGURATION MONASTERY,
INCORPORATED
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Massachusetts
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

SHERIDAN BOOKS, INC. & ARCHBISHOP GREGORY OF DENVER, CO
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Michigan corporation
(IN U.S. PLAINTIFF CASE ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION
OF THIS TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Dickinson Wright PLLC
Kathleen A. Lang (P34695)
300 Woodward, Ste. 4000
Detroit, MI 48226
(313) 223-3500

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

☐ 1 U.S. Government
Plaintiff

☒ Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government
Defendant

☒ Diversity
(Indicate Citizenship of Parties
in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE

(For Diversity Cases Only)

BOX FOR PLAINTIFF
AND ONE BOX FOR
DEFENDANT)

PTF DEF

PTF DEF

Citizen of This State ☐ 1 ☐ 1Incorporation or Principal Place
of Business in This State ☐ 4 ☐ 4Citizen of Another State ☐ 2 ☐ 2Incorporation or Principal Place
of Business in Another State ☐ 5 ☐ 5Citizen of Subject of a
Foreign Country ☐ 3 ☐ 3Foreign Nation ☐ 6 ☐ 6

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

Appeal of District
Judge from
Magistrate☒ Original☐ 2 Removed from☐ 3 Remanded from☐ 4 Reinstated orTransferred from
another district☐ 6 Multidistrict☐ 7 Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT

- ☐ 118 Insurance
- ☐ 120 Marine
- ☐ 130 Motor Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment
& Enforcement of
Judgment
- ☐ 151 Medicare Act
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(See Veterans)
- ☐ 153 Recovery of Overpayment
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- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Rugs
- ☐ 660 Occupational
Safety/Health
- ☐ 690 Other

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- ☐ 421 Appeal 28 USC 158
- ☐ 423 Withdrawal
28 USC 157

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- ☒ 820 Copy Rights
- ☒ 830 Patent
- ☒ 840 Trademark

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- ☐ 410 Antitrust
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- ☐ 460 Deportation
- ☐ 470 Receiver Influence and
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- ☐ 510 Selective Services
- ☐ 550 Securities/Commodities/
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- ☐ 594 Energy Allocation Act
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- ☐ 596 Appeal of Fee Determination
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- ☐ 531 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
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- ☐ 730 Labor/Mgmt. Reporting
& Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc.
Security Act

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- ☐ 862 Black Lung (923)
- ☐ 863 DIW/DIWW (405(a))
- ☐ 864 SSID (Title XVI)
- ☐ 965 RSI (405(a))

FEDERAL TAX SUIT

- ☐ 870 Taxes (U.S. Plaintiff
or Defendant)
- ☐ 871 IRS - Third Party
26 USC 7609

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

28 U.S.C. § 1332(a) and 17 U.S.C. § 301(a)

VII. REQUEST IN
COMPLAINT:

DEMAND
☐ CHECK IF THIS IS A
UNDER F.R.C.P. 23

CLASS ACTION

CHECK YES only if demanded in complaint

JURY DEMAND: ☒ YES ☐ NOVIII. RELATED CASE(S):
IF ANY

JUDGE

DOCKET NUMBER

DATE January 23, 2006

SIGNATURE OF ATTORNEY OF RECORD Kathleen A. Lang (P34695)

MAG. RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

JUDGE

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously discontinued or dismissed?

☐ YES ☒ NO

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ YES ☒ NO

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

NOTES